

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

# IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456  
Civil Action No. 01-12257-PBS  
Subcategory No: 03-10643

THIS DOCUMENT RELATES TO:

Judge Patti B. Saris

*City of New York v. Abbott Labs., et al.*

(S.D.N.Y. No. 04-CV-06054)

*County of Suffolk v. Abbott Labs., et al.*

(E.D.N.Y. No. 03-CV-229)

*County of Westchester v. Abbott Labs., et al.*

(S.D.N.Y. No. 03-CV-6178)

*County of Rockland v. Abbott Labs., et al.*

(S.D.N.Y. No. 03-CV-7055)

*County of Dutchess v. Abbott Labs., et al.*

(S.D.N.Y. No. 05-CV-06458)

*County of Putnam v. Abbott Labs., et al.*

(S.D.N.Y. No. 05-CV-04740)

*County of Washington v. Abbott Labs., et al.*

(N.D.N.Y. No. 05-CV-00408)

*County of Rensselaer v. Abbott Labs., et al.*

(N.D.N.Y. No. 05-CV-00422)

*County of Albany v. Abbott Labs., et al.*

(N.D.N.Y. No. 05-CV-00425)

[Caption Continues on Next Page]

**DECLARATION OF SARAH L. REID IN SUPPORT OF  
DEY, L.P. AND DEY, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

<i>County of Warren v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00468)	)
<i>County of Greene v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00474)	)
<i>County of Saratoga v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00478)	)
<i>County of Columbia v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00867)	)
<i>Essex County v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00878)	)
<i>County of Chenango v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00354)	)
<i>County of Broome v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00456)	)
<i>County of Onondaga v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00088)	)
<i>County of Tompkins v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00397)	)
<i>County of Cayuga v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00423)	)
<i>County of Madison v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00714)	)
<i>County of Cortland v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00881)	)
<i>County of Herkimer v. Abbott Labs. et al.</i>	)
(N.D.N.Y. No. 05-CV-00415)	)
<i>County of Oneida v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00489)	)
<i>County of Fulton v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00519)	)
<i>County of St. Lawrence v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00479)	)
<i>County of Jefferson v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00715)	)
<i>County of Lewis v. Abbott Labs., et al.</i>	)
(N.D.N.Y. No. 05-CV-00839)	)
<i>County of Chautauqua v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06204)	)
<i>County of Allegany v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06231)	)
<i>County of Cattaraugus v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06242)	)

<i>County of Genesee v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06206)	)
<i>County of Wayne v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06138)	)
<i>County of Monroe v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06148)	)
<i>County of Yates v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06172)	)
<i>County of Niagara v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06296)	)
<i>County of Seneca v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06370)	)
<i>County of Orleans v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06371)	)
<i>County of Ontario v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06373)	)
<i>County of Schuyler v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06387)	)
<i>County of Steuben v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06223)	)
<i>County of Chemung v. Abbott Labs., et al.</i>	)
(W.D.N.Y. No. 05-CV-06744)	)
AND	)
<i>County of Nassau v. Abbott Labs., et al.</i>	)
(E.D.N.Y. No. 04-CV-5126)	)
	)

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**SARAH L. REID** declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel to Dey, Inc., Dey L.P., Inc., and Dey L.P. (collectively “Dey”). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.
2. I make this Declaration in support of Dey’s Opposition to Plaintiffs’ Motion for Partial Summary Judgment.
3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Dey, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.

4. Attached hereto as Exhibit A is a true and correct copy of excerpts from the deposition of Sue Gaston, dated March 19, 2008.

5. Attached hereto as Exhibit B is a true and correct copy of the Rebate Agreement between the Secretary of Health and Human Services and Dey Laboratories Inc., dated January 1, 1991, DL-TX-000914 – DL-TX-000946.

6. Attached hereto as Exhibit C is a true and correct copy of excerpts from the deposition of Russell Johnston, dated December 10, 2008.

7. Attached hereto as Exhibit D is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, dated May 15, 2008.

8. Attached hereto as Exhibit E is a true and correct copy of the Medicaid Prescription Reimbursement Information by State – Quarter Ending June 2008, *available at* <http://www.cms.hhs.gov/Reimbursement/Downloads/StateRxReimbursementJune2008.pdf>.

9. Attached hereto as Exhibit F is a true and correct copy of the Medicaid Prescription Reimbursement Information by State – Quarter Ending March 2009, *available at* <http://www.cms.hhs.gov/Reimbursement/Downloads/reimbursementchart1q2009.pdf>.

10. Attached hereto as Exhibit G is a true and correct copy of excerpts from the deposition of Cynthia Jane Collie, dated February 19, 2003.

11. Attached hereto as Exhibit H is a true and correct copy of excerpts from the deposition of Carrie Jean Jackson, dated April 18, 2003.

12. Attached hereto as Exhibit I is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, dated July 10, 2008.

13. Attached hereto as Exhibit J is a true and correct copy of excerpts from the deposition of Todd Galles, dated March 1, 2006.

14. Attached hereto as Exhibit K is a true and correct copy of excerpts from the deposition of Patricia Kay Morgan, dated November 30, 2007.

15. Attached hereto as Exhibit L is a true and correct copy of excerpts from the deposition of Russell Johnston, dated December 11, 2008.

16. Attached hereto as Exhibit M is a true and correct copy of a letter from Robert Mozak, Executive Vice President of Sales and Marketing for Dey, L.P. to state Medicaid administrators, including Mark Richard Butt, R.Ph., Pharmacy Program Manager of New York Medicaid, dated July 18, 2000, Bates DL-0050107 – DL-0050113.

17. Attached hereto as Exhibit N is a true and correct copy of excerpts from the deposition of Robert Mozak, dated April 30, 2002.

18. Attached hereto as Exhibit O is a true and correct copy of excerpts from the deposition of Robert Mozak, dated November 6, 2002.

19. Attached hereto as Exhibit P is a true and correct copy of excerpts from the deposition of Sue Gaston, dated January 24, 2008.

20. Attached hereto as Exhibit Q is a true and correct copy of excerpts from the deposition of Gail Sexton, dated May 20, 2008.

21. Attached hereto as Exhibit R is a true and correct copy of excerpts from the deposition of Robert Mozak, dated March 13, 2003.

22. Attached hereto as Exhibit S is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Gary Walker, dated July 9, 2008.

23. Attached hereto as Exhibit T is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, dated August 19, 2004.

24. Attached hereto as Exhibit U is a true and correct copy of excerpts from the deposition of Robert Mozak, dated November 1, 2001.

25. Attached hereto as Exhibit V is a true and correct copy of excerpts from the deposition of Charles Rice, dated October 30, 2001.

26. Attached hereto as Exhibit W is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Gary Walker, dated May 14, 2008.

27. Attached hereto as Exhibit X is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, dated October 2, 2008.

28. Attached hereto as Exhibit Y is a true and correct copy of excerpts from the deposition of Bruce Vladeck, dated May 4, 2007.

29. Attached hereto as Exhibit Z is a true and correct copy of excerpts from the deposition of Thomas Scully, dated July 13, 2007.

30. Attached hereto as Exhibit aa is a true and correct copy of the Rebate Agreement between Dey Laboratories Inc. and the New York State Elderly Insurance Coverage Program, dated January 13, 1993, Bates DEY-LABS-0356210-240.

31. Attached hereto as Exhibit bb is a true and correct copy of a printout from the U.S. Food and Drug Administration website showing the application number and date of entry for Dey's Albuterol .83 mg/ml solution, *available at* <http://www.accessdata.fda.gov/scripts/cder/drugsatfda/index.cfm?fuseaction=Search.DrugDetails>.

32. Attached hereto as Exhibit cc is a true and correct copy of the United States General Accounting Office Report to Congressional Requesters, entitled "DOD AND VA PHARMACY: Progress and Remaining Challenges in Jointly Buying and Mailing Out Drugs" (GAO-01-588), dated May 2001.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 15, 2009.

/s/ Sarah L. Reid

Sarah L. Reid

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on June 15, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Sarah L. Reid

Sarah L. Reid